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FACULTY OF LAW
UNIVERSITY OF TORONTO

Jurisprudence: Knowing, Reasoning, and Judging

Martha Minow -- University of Toronto -- Faculty of Law

January, 1990

We will explore problems of knowledge, debates over the nature of reason, and difficulties in reaching judgments as depicted in contemporary legal materails. We will look for help and perspective from nonlegal materials, and from our own perceptions and experiences.

Overview

January 8: Introduction: The Sears Case

January 9: Knowing: Causation

January 10: Knowing: Identity and Power

January 11: Knowing: Can Lawyers Learn From Modern Science?

January 12: Reasoning: Rationality and Emotionality

January 15: Reasoning: Empathy and Distance--Problems of Perspective

January 16: Reasoning: Persuasion and Disagreement

January 17: Judging: Common Sense and Uncommon Events

January 18: Judging: Hate and Speech

January 19: Judging and Identity

January 8: Introduction

For the first class, please read:

The Sears Case: Jacquelyn Hall, Women's History Goes to Trial; Sandi Cooper, Introduction to the Documents, and Materials from the Case, 11 Signs 751 (1986)

Joan Scott, Deconstructing Equality Versus Difference: Or, the Uses of PostStructuralist Theory for Feminism, 14 Feminist Studies 33 (1988)

Ruth Milkman, Women's History and the Sears Case, 12 Feminist Studies 375 (1986)

January 10: Knowing: Identity and Power

James Clifford, The Mashpee, in The Predicaments of Culture (1988)

Judith Resnik, Dependent Sovereigns: Indian Tribes, States, and the Federal Courts 56 U. Chi. L. Rev. 671-675 (1989)(excerpt)

January 11: Knowing: Can Lawyers Learn from Modern Science?

Readings: DeShaney v. Winnebago County Dept. of Social Services, 109 S.Ct. 998 (1989)

Laurence H. Tribe: The Curvature of Constitutional Space: What Lawyers Can Learn from Modern Physics, 103 Harv. L. Rev. 1 (1989)

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January 12: Reasoning: Rationality and Emotionality

Justice William J. Brennan, Jr., Reason, Passion, and "The Progress of the Law," 10 Cardozo L. Rev. 3 (1988)

Martha Minow and Elizabeth V. Spelman, Passion for Justice, 10 Cardozo L. Rev. 37 (1988)

January 15: Reasoning: Empathy and Distance--Problems of Perspective

Readings: Susan Glaspell, Jury of Her Peers, Everyweek (March 5, 1917)

Patricia Hill Collins, Learning From The Outsider Within: The Sociological Significance of Black Feminist Thought, 33 Social Problems 214 Dec. 1986)

Alice Walker, Advancing Luna and Ida B. Wells, in Midnight Birds 63 (Mary Helen Washington ed. 1980)

January 16: Reasoning: Persuasion and Disagreement

Joseph William Singer, Persuasion, 87 Mich. L. Rev. 2442 (1989)

Pappajohn v. The Queen

January 17: Judging: Common Sense and Uncommon Events

Clifford Geertz, Common Sense as a Culture System, in Local Knowledge 73 (1983)

Julie Taylor, Rape and Women's Credibility: Problems of Recantations and False Accusations Echoed in the Case of Cathleen Crowell Webb and Gary Dotson, 10 Harv. Women's L.J. 59-116 (1987)

January 18: Judging: Hate and Speech

Readings: Regina v. Zundel

Patricia Williams, The Obliging Shell: An Informal Essay on Formal Equal Opportunity, 87 Mich. L. Rev. 2128 (1989)

January 19: Judging and Role

Readings: Robert Cover, Justice Accused (1975)(excerpts)

The Japanese Internment Cases

In re Phillip Becker

Italo Calvino, The Light Years, in Cosmicomics 127-138 (1968)